

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHARLES WADE,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Case No. C10-5596BHS-KLS

REPORT AND RECOMMENDATION TO
DENY APPLICATION TO PROCEED *IN*
FORMA PAUPERIS

Noted for October 22, 2010

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local Rule MJR 3 and 4. This matter comes before the Court on plaintiff's filing of an application to proceed *in forma pauperis* and a complaint to review and set aside a decision of the Social Security Administration under 42 U.S.C. § 405(g). Because plaintiff's application indicates he has sufficient income with which to pay the \$350.00 filing fee, the undersigned recommends that the court deny the application.

DISCUSSION

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the Court has broad discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963). By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government to incur the filing fee because he allegedly is unable to afford the costs necessary to proceed with his cause of action.

REPORT AND RECOMMENDATION - 1

1 In his application, plaintiff indicates he receives \$2,600.00 a month in benefits from the
2 United States Department of Veterans Affairs. (Dkt. #1 and #3). While the undersigned
3 recognizes that this does not constitute a substantial income, given that there are no other persons
4 who are dependent upon plaintiff for support, it does not seem unreasonable to expect him to pay
5 the required filing fee.

6
7 CONCLUSION

8 Because it is reasonable for plaintiff to incur the costs to proceed with this cause of
9 action, the undersigned recommends that the Court deny his application to proceed *in forma*
10 *pauperis*. Accordingly, the undersigned also recommends that the Court order plaintiff to pay
11 the required filing fee within **thirty (30) days** of the Court's order.

12 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedures ("Fed. R.
13 Civ. P.") 72(b), the parties shall have **fourteen (14) days** from service of this Report and
14 Recommendation to file written objections thereto. See also Fed.R.Civ.P. 6. Failure to file
15 objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474
16 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the Clerk is
17 directed set this matter for consideration on **October 22, 2010**, as noted in the caption.

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19 DATED this 6th day of October, 2010.

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23 Karen L. Strombom
24 United States Magistrate Judge
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